

Form 5



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ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

MUNICIPAL LAW UNIT
1350 MAIN STREET, 4TH FLOOR
SPRINGFIELD, MASSACHUSETTS 01103-1629

Town: _____

Date Town Meeting Convened: _____

Form 5 – Additional Information Required for Charter Amendments Proposed Pursuant to M.G.L. c. 43B, § 10¹

Please complete the following questions (1, 2A or 2B, 3), and sign. Ensure that you have included all appropriate attachments (1, 2, 3, 4).

1. Existing Charter. Please check one.

The service of the town meeting warrant was in accordance with:

- _____ A **Home Rule Charter** adopted under M.G.L. c. 43B, § 9; or
- _____ A **Special Act Charter** established by Special Act of the Legislature; or
- _____ **Laws having the force of charter** by virtue of section nine of Article LXXXIX of the Amendments to the Constitution

Include Attachment #1. Check to indicate the following has been included:

_____ Complete copy of the existing charter

2A. If the charter amendment was proposed either by the city council or the town meeting pursuant to M.G.L. c. 43B, § 10(a): Indicate the date on which the proposal was approved by a two-thirds vote of the town meeting but (if a city) the date on which the proposal was approved by the mayor in any municipality that has a mayor as defined in the last sentence of M.G.L. c. 43B, § 10(a).

Date Order Approved by the town meeting _____

Date Order Approved by the mayor (if applicable) _____

OR

¹ Municipal charters may be **amended** in accordance with the procedures set forth in M.G.L. c. 43B, § 10 (**Home Rule Procedures Act**), and this Form 5 is intended for use in connection with these procedures. Charters may also be amended by a Home Rule **Special Act** of the Legislature, in connection with which the approval of the Attorney General is not required. Note that any charter amendment that proposes a change in (1) the composition, (2) the mode of election or appointment, or (3) the terms of office of: (a) the legislative body, (b) the mayor (i.e. chief executive officer), (c) the city manager, (d) the board of selectmen, or (e) the town manager, may not be proposed under M.G.L. c. 43B, § 10, but only upon the proposal of a Charter Commission in accordance with M.G.L. c. 43B, §§ 3-9, or by a Special Act.

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2B. If the charter amendment was proposed upon the suggestion of those identified in M.G.L. c. 43B, § 10 (b):

- a.) Was the proposed amendment one substantially the same as one already considered and voted upon within the last twelve (12) months?

_____ Yes _____ No

Note: If "yes," then you must either petition for a Special Act of the Legislature or proceed under M.G.L. c. 43B, §§ 3-9.

- b.) Date the petition was filed with the clerk: _____

Include Attachment #2. Check to indicate the following has been included:

_____ A copy of the petition

- c.) Within three (3) months of the filing date [2B(b)], did the city council or board of selectmen order a public hearing on the proposed change(s)?

_____ Yes _____ No

Order date: _____

- d.) Before what board was the public hearing held?

_____ Charter Commission

_____ City Council

_____ Board of Selectmen

_____ Other

Please specify: _____

- e.) Was the public hearing held not later than four (4) months from the filing date [2B(b)]?

_____ Yes _____ No

Hearing date: _____

- f.) Was the notice of the public hearing published in a newspaper of general circulation in the city or town at least seven (7) days prior to the date of the public hearing?

_____ Yes _____ No

Publication date: _____

Include Attachment #3. Check to indicate the following has been included:

_____ A copy of the newspaper notice showing the date of publication

- g.) Except where the hearing was before the city council, did the board or committee holding the public hearing report its recommendations to the city council or town meeting?

_____ Yes _____ No

Was the report **oral** or **written**?

_____ Oral _____ Written

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Include Attachment #4. Check to indicate the following has been included:

_____ A copy of the report, if written

h.) If a city, was final action taken by the city council not later than (6) months after the filing date [2B(b)]?²

_____ Yes _____ No

Final action date: _____

i.) If a town, was final action taken by town meeting not later than the first annual town meeting held at least six (6) months after the filing date [2B(b)]?

_____ Yes _____ No

Final action date: _____

3. Submission to the Attorney General³ (MANDATORY). Indicate dates on which the proposed amendment was submitted to:

The Attorney General _____

The Department of Housing and Community Development _____

Certification

I certify the above declaration to be true and correct to the best of my knowledge.

Signature of Town Clerk	PRINT name	Date signed

² This confusing language simply means that town meeting may act **any time prior to** the first annual town meeting that takes place 6 months or more from the date on which the petition was filed. Note also that at any time after the public hearing, two hundred (200) registered voters or twenty per cent (20%) of the total number of registered voters, whichever is less, may request the selectmen to call a special town meeting to consider the suggested amendment, and the selectmen shall call a special town meeting to be held not more than forty-five (45) days after the receipt of the request.

³ Immediately following a vote by a municipal legislative body (city or town council, town meeting) proposing to the voters an amendment of the charter, use this Form 5 to submit a copy of the proposed amendment to the Attorney General for approval. The Attorney General then has four (4) weeks within which to issue a written opinion setting forth any conflicts between the proposed amendment and the Constitution and laws of the Commonwealth. The Attorney General sends a copy of that opinion to (a) the municipal legislative body and (b) DHCD. The order of the local legislative body proposing the amendment will take effect **four (4) weeks after the date of submission** to the Attorney General **unless** before that date the Attorney General reports that the proposed amendment conflicts with the Constitution or laws of the Commonwealth, in which case the order will not take effect and the proposed amendment may not be placed on the ballot for voter action.